
(2002) 01 JH CK 0056
In the Jharkhand High Court
Case No : CWJC No. 2194 of 2000 (R)

Umesh Saha

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 09-01-2002

Acts Referred:

Citation : (2002) 01 JH CK 0056

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Anil Kumar Sinha, for the Appellant; R.K. Marathia, G.P. II, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard the parties.

2. In this writ application the petitioner has prayed for quashing the order dated 10.7.2000 issued by the Civil Surgeon- cum-Chief Medical Officer, Chatra by which the services of the petitioner has been terminated on the basis of direction issued by the Deputy Commissioner, Chatra vide order dated 24.6.2000. Both these orders have been annexed as Annexures 6 and 7 to the writ application.

3. It appears that the petitioner along with other persons were appointed in the year 1981. The petitioner was given promotion from the post of Health Servant to Family Planning Worker by Order of the Chief Medical Officer-cum-Civil Surgeon, Hazaribagh vide order dated 19.11.1982. However, in 1986 the services of the petitioner was terminated along with seven other persons on the ground that appointment was not made in accordance with law. The petitioner along with other persons approached this Court in CWJC No. 1701/1986 (R) challenging the order of termination dated 24.10.1986. This Court by judgment and order dated 25.8.1987 allowed the writ application and set aside the order of termination with a direction to the Civil Surgeon to take appropriate action after recording satisfactory reasons. It appears that in pursuance of the order of this

Court, the petitioner along with others reinstated in service and their services for the period 1.11.1986 to 18.10.1987 was regularised. Curiously enough, no action was taken by the respondents pursuant to judgment and order dated 19.10.1987 and the petitioner was allowed to continue in service. All of a sudden, the Deputy Commissioner, Chatra by his order dated 24.6.2000 directed the Civil Surgeon-cum-Chief Medical Officer, Chatra to terminate the services of the petitioner and to recover the entire salary which has been paid to the petitioner. In para 14 of the writ application it is stated that although the services of eight persons were terminated in 1986 and all of them reinstated as aforesaid but the instant order of termination has been passed only against the petitioner.

4. The respondents, in their counter-affidavit, stated inter alia, that the initial appointment of the petitioner itself was illegal inasmuch as the Civil Surgeon does not have the power to make appointment of the petitioner. It is contended that the Commissioner-cum-Secretary, Health Department issued memo in 1999 to all the Commissioners directing them to terminate the services of those persons who were appointed after 1.1.1980. On the basis of the aforesaid order the Deputy Commissioner, Chatra issued order dated 24.6.2000 directing the Civil Surgeon to terminate the services of the petitioner.

5. Admittedly, the petitioner along with other persons were appointed in 1981. The 1986 their services were terminated. Thereafter the order of termination was set aside by this Court in 1987 and respondents were given liberty to proceed in accordance with law. Pursuant to that order the petitioners were taken in service and the period in between the date of termination and the date of reinstatement were also regularised. However, no action was taken against the petitioner about 13/14 years from the date of passing of the judgment. But, on the basis of notification issued by the Government in 1999 the services of the petitioner have been terminated by order dated 10.7.2000.

6. Be that as it may the petitioner has been continuously working since the last 20 years without any break in service. The order of termination was passed in 1986 was set aside and the petitioner was taken back in service. The action of the respondents in terminating the services of the petitioner after 20 years that too on the basis of the circular issued by the Government is wholly unjustified.

7. In my opinion, continuance of the petitioner in service for the last 20 years has given him a right to continue in the service. The impugned order of termination is, there fore, set aside. This writ application is allowed and the respondents are directed to reinstate the petitioner in service.